

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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TRANSCRIPT OF SENTENCING HEARING  
HELD BEFORE THE HONORABLE JAY A. GARCIA-GREGORY  
CLEMENTE RUIZ-NAZARIO U.S. COURTHOUSE, HATO REY, PUERTO RICO  
TUESDAY, MARCH 29, 2016

## A P P E A R A N C E S

For the United States of America:

Assistant U.S. Attorney Alberto R. Lopez-Rocaforte

For the Defendant:

Attorney Frank D. Inserni-Milam

1 (Proceedings commenced at 4:57 pm.)

2 -00-

3 THE CLERK: United States of America versus Carlos  
4 Rivera-Velazquez, Case Number 13-433, sentencing hearing. For  
5 the Government, Assistant U.S. Attorney Alberto Lopez, and for  
6 defendant, Attorney Frank Inserni. The defendant will be  
7 assisted by the certified court interpreter.

8 MR. LOPEZ-ROCAFORT: Good afternoon, Your Honor. The  
9 United States is ready.

10 MR. INSERNI-MILAM: Good afternoon, Your Honor.  
11 Frank Inserni, for the record, by appointment of the Court.  
12 We're ready to proceed for a sentence.

13 THE COURT: Okay. If defendant feels pain in his  
14 back, you know, he can sit down. Okay?

15 THE DEFENDANT: No.

16 THE COURT: Okay. Have you explained to the  
17 defendant the presentence investigation report; you're  
18 satisfied he understands all of the contents?

19 MR. INSERNI-MILAM: Your Honor, I met with Mr.  
20 Rivera-Velazquez yesterday. We went over the amended PSR  
21 report. There is two reports: There's the original one and  
22 the amended one.

23 And we went over both. We went over my corrections  
24 and/or comments to both. And I understand he understands it.  
25 And, as a matter of fact, I filed a supplement last night, Your

1 Honor.

2 THE COURT: Oh, you did.

3 MR. INSERNI-MILAM: A supplementary to my --

4 THE COURT: I have your presentence memo of Sunday,  
5 the 27th.

6 MR. INSERNI-MILAM: Last night, I filed a  
7 supplementary --

8 THE COURT: So you filed one last night, March 28th.

9 MR. INSERNI-MILAM: Very brief. Yes, sir. Very  
10 brief.

11 THE COURT: Very brief.

12 Well, can I have that, please?

13 THE CLERK: Yes, Your Honor.

14 THE COURT: So I can examine it briefly.

15 MR. INSERNI-MILAM: I apologize for not having  
16 emailed it directly to the probation officer, which I usually  
17 do. I just thought, by having it filed in the CMF, all of the  
18 parties would have it. I don't want to delay the Court's  
19 business or work here but --

20 THE COURT: No. That's fine. Remember that I have a  
21 standing order saying that, you know, sentencing memos have  
22 been filed 10 days before the sentencing hearing.

23 MR. INSERNI-MILAM: So, Your Honor, in light of that  
24 --

25 THE COURT: Precisely so I can imbibe everything in

1 there, and I can make a just decision.

2 MR. INSERNI-MILAM: Your Honor, I've been going to  
3 MDC to make sure that Mr. Rivera was aware of it. Every time I  
4 went, there was something new, so I would hopefully bring it to  
5 the Court's attention, and to the parties.

6 THE COURT: Oh, thank God.

7 Okay. Okay. While we are here, you know, it says  
8 here that he has this problem, you know, with a herniated disc.  
9 I mean, if you want me to make a designation to a hospital  
10 facility or --

11 MR. INSERNI-MILAM: No. I already spoke with him.  
12 He explained to me that he was given the option to go to  
13 surgery, but it was not urgent. He'd rather not go through  
14 surgery. He would rather wait to see if it improves.

15 THE COURT: They have an excellent facility in  
16 Minnesota, you know, where they have the Mayo Clinic, you know,  
17 and the Rochester people, tending to the inmates.

18 MR. INSERNI-MILAM: Your Honor, I would appreciate  
19 you recommending any medical, for a follow-up medical  
20 examination of his condition, but he --

21 THE COURT: I will do that.

22 MR. INSERNI-MILAM: Please.

23 THE COURT: Okay. But then, what would the  
24 designation be? You know, like Florida or --

25 MR. INSERNI-MILAM: He was asking if --

1                   THE COURT: I think he has someone in the states, no?

2                   MR. INSERNI-MILAM: Pensacola, Louisiana and  
3                   Mississippi.

4                   THE COURT: In that order?

5                   MR. INSERNI-MILAM: In that order, right.

6                   THE COURT: Pensacola --

7                   MR. INSERNI-MILAM: Louisiana and Mississippi.

8                   THE COURT: The last one would be Mississippi. And  
9                   then, he has problems with alcohol, so I will also recommend  
10                   something with respect to that, and any other educational or  
11                   vocational training, you know, that will keep him busy.

12                   Okay. How -- I'm not going to take into account  
13                   what's going on in the local courts. Okay?

14                   MR. INSERNI-MILAM: Fine.

15                   THE COURT: When the time comes, you know, either you  
16                   or someone else will have to deal with that.

17                   MR. INSERNI-MILAM: Right. Right. Perfect.

18                   THE COURT: Okay. Now, the government, you stand by  
19                   the plea?

20                   MR. LOPEZ-ROCAFORT: Yes, Your Honor. We stand by  
21                   the plea.

22                   I just wanted to express to the Court that in, in, in  
23                   this case, Your Honor, the parties has been negotiating for a  
24                   while. We took into consideration, as part of the negotiation,  
25                   as part of the plea, we took into consideration the conspiracy

1 charge, the defendant's characteristics as contained in the PSR  
2 and, most important, obviously, defendant's role in the  
3 offense.

4 And considering defendant's role in the offense, as a  
5 supplier for marijuana, we, we agreed to a plea as, in which  
6 both parties are requesting the Court to sentence the defendant  
7 to 84 months of imprisonment, Your Honor. And we, obviously we  
8 stand by it, and we recommend to the Court that, to sentence  
9 the defendant to 84 months of imprisonment.

10 THE COURT: Okay. That was what, you know, the  
11 sentence recommendation.

12 MR. LOPEZ-ROCAFORT: That is correct, as to both  
13 parties, Your Honor.

14 MR. INSERNI-MILAM: That's correct, Your Honor.

15 THE COURT: Very well.

16 Okay. And anything else before I hear defendant out?

17 MR. INSERNI-MILAM: I think Mr. Lopez hit on what I  
18 wanted to clarify, which is at footnote one of the amended PSI.  
19 The footnote one, basically, is something that the probation  
20 officer very clearly added after I filed my memo.

21 But, as Mr. Lopez said, the role of my client in this  
22 case was as a marijuana supplier. He was not -- and, Your  
23 Honor, I made the distinction, and Mr. Lopez can correct me if  
24 I'm wrong, but the U.S. Attorney's Office, they have a rule or  
25 a custom or a form of calculating a, plea agreements, when

1       drugs are involved, based on a certain drug, which is  
2       cocaine. But that does not necessarily mean that the defendant  
3       was dealing in cocaine.

4               And that's what I wanted to make the Court aware of.  
5       He is charged, and the evidence is, that he supplied marijuana.  
6       Okay? Not cocaine. But Mr. Lopez can correct me, the  
7       calculations of the guidelines are based on cocaine, and I just  
8       want to clarify that.

9               So I want Your Honor to know that my client did not  
10       deal with cocaine. He's not a drug-user. He's always  
11       negative. But he has an alcohol problem, and that's why I  
12       asked the Court to recommend treatment for both, just for his  
13       benefit, for both, for drugs and alcohol.

14               MR. LOPEZ-ROCAFORT: Counsel is right in terms that  
15       the defendant, the evidence of the government against the  
16       defendant, and what the defendant accepted in the plea, in  
17       terms of his role, was that he was a marijuana supplier for the  
18       organization. That doesn't mean that the defendant, due to  
19       foreseeability, is responsible for other drugs that are sold at  
20       the drug point, because you have a drug point that sells --

21               MR. INSERNI-MILAM: Everything.

22               MR. LOPEZ-ROCAFORT: -- everything: cocaine  
23       marijuana, heroin, crack cocaine.

24               So, in that sense, in these cases, Your Honor, we  
25       obviously get to stipulations, get to stipulations with the

1 defendant as to a specific drug, in this case, cocaine, because  
2 we understand that he's still responsible for, for the other  
3 drugs that are sold there. However, in terms of his role, in  
4 terms what the evidence is as to him is that he was a supplier  
5 for marijuana, and that is clarified in the statement of facts.

6 THE COURT: It should be -- yeah. It should be  
7 clear, you know, from the presentence investigation report.  
8 Okay? Very well.

9 MR. INSERNI-MILAM: Thank you.

10 That's, basically, my concern, Your Honor, with the  
11 PSI.

12 THE COURT: Okay.

13 MR. INSERNI-MILAM: The recommendations --

14 MR. LOPEZ-ROCAFORT: Just to be clear, the  
15 acceptance, the stipulation was as to cocaine, and the numbers  
16 that we reached in the plea agreement is within a stipulation  
17 as to cocaine. However, we obviously, we agree that the  
18 evidence is that he was a supplier of marijuana.

19 THE COURT: Okay. Well, it was still a sufficient  
20 quantity, you know, in order for him to be charged with  
21 possession with intent to distribute.

22 MR. LOPEZ-ROCAFORT: That is correct, Your Honor.

23 THE COURT: You know, and both are controlled  
24 substances.

25 MR. INSERNI-MILAM: Right.

1 MR. LOPEZ-ROCAFORT: That is correct.

2 THE COURT: Very well.

3 Okay. So would defendant like to address the Court  
4 before I proceed to sentence?

5 THE DEFENDANT: Yes.

6 THE COURT: It's your right to do so. Okay?

7 THE DEFENDANT: In the plea that I signed, I got two  
8 points for weapons. In the accusations of the indictment, I  
9 don't appear to having been charged with weapons.

10 In the discovery, there is no audio, video or photos  
11 alluding to weapons. In the statement of the witness, on page  
12 13 of the indictment, there is no mention either of a weapon.

13 And which, on November 30th, when I pled guilty, the  
14 magistrate suspended the hearing for half an hour. She  
15 suspended the hearing because she found no reason for those two  
16 points for the weapon.

17 That is all.

18 THE COURT: Okay.

19 MR. LOPEZ-ROCAFORT: Your Honor, we want to clarify  
20 that.

21 THE COURT: Would you clarify that, please?

22 MR. LOPEZ-ROCAFORT: Yes, Your Honor.

23 This is -- I don't know -- the defendant is right,  
24 he's not charged with the firearm count. That doesn't mean  
25 that the government doesn't have evidence as to the defendant

1 with firearms.

2 We have testimonial evidence of the defendant  
3 carrying firearms. And, besides that, we have an arrest, at  
4 the state level, by the Police of Puerto Rico, actually, in  
5 that case. That case appeared in the presentence report, where  
6 the defendant was arrested with 200 baggies of marijuana and a  
7 Glock 26.

8 That's why, during the negotiation process, we agreed  
9 with counsel to add the two points, because obviously there was  
10 going to be evidence of firearms as to this defendant, and the  
11 two-points enhancement was going to be made by probation, Your  
12 Honor. That case, actually, the defendant still have an arrest  
13 warrant pending.

14 THE COURT: I see here. Yes.

15 MR. LOPEZ-ROCAFORT: So it is not correct that --

16 THE COURT: It was administratively closed.

17 MR. LOPEZ-ROCAFORT: Yes. It can be open at any  
18 time, Your Honor, because the defendant actually still a  
19 fugitive in that case.

20 MR. INSERNI-MILAM: Your Honor, I differ as to being  
21 a fugitive. The state authorities, the district attorney for  
22 Caguas, they know that he's -- they've known all along, since  
23 July, that he's been sitting in MDC Guaynabo.

24 And, as I said in my supplement, there has been no  
25 habeas corpus proceedings. There has been no requests. It's

1       been closed administratively, which is correct, which is what  
2       Mr. Lopez told you.

3               But that doesn't mean that he's a fugitive. Being a  
4       fugitive means he's absconding.

5               MR. LOPEZ-ROCAFORT: He's declared a fugitive, Your  
6       Honor.

7               MR. INSERNI-MILAM: Well, yeah. But then, it's been  
8       -- what is it? The (speaking in a non-English language), it's  
9       a complaint, has been administratively --

10               THE COURT: But it says here that there is an order  
11       for his arrest because, for nonappearance, with a \$200,000  
12       bond.

13               MR. INSERNI-MILAM: Your Honor, right. But that is  
14       the state case, as Your Honor said, is administratively  
15       dismissed -- not dismissed, (speaking in a non-English  
16       language).

17               THE COURT: Yeah. It has been put on hold. Let's  
18       put it that way.

19               MR. INSERNI-MILAM: Put on hold. Exactly. Exactly.

20               THE COURT: Pending whatever may happen, and it may  
21       never revive, depending on what the Government of Puerto Rico  
22       would like to do with defendant. Okay?

23               MR. INSERNI-MILAM: Exactly, Your Honor.

24               But my point is, which is my point with acquitted  
25       conduct, and I will make this point to the Supreme Court, if I

1 had to, basically, what it says in a complaint by police  
2 officer is not evidence. That's my point.

3                   In other words, I don't think Your Honor should give  
4 much weight to a police complaint that is administratively  
5 pending in order to declare this gentleman dangerous or declare  
6 him as guilty of a firearm. I don't think Your Honor -- I'm  
7 not saying you're going to do that.

8                   THE COURT: You're not saying he's guilty. I mean,  
9 it was taken into account with respect to the plea agreement,  
10 but that doesn't mean that he's being charged or he's being  
11 found guilty of a firearm.

12                   As a matter of fact, you know, when I recommend that  
13 he be given some assistance, you know, for his alcohol problem  
14 or, you know, even though he has tested negative for substance  
15 abuse, if it had been a firearm, you know, perhaps he would not  
16 be given that counseling. Okay?

17                   MR. INSERNI-MILAM: Right.

18                   THE COURT: But I'm not going to do that, you know.  
19 He's not being charged with the firearm, and the government has  
20 made that very clear.

21                   MR. LOPEZ-ROCAFORT: My point is, my point is, that  
22 that is the basis, not solely the case. The case is  
23 corroboration of the testimony of the witnesses, but that is  
24 the basis for the two-point enhancement, of the firearm  
25 enhancement.

1 Enhancement that defendant is saying that he's not  
2 responsible now, nonetheless, it was initialed by him during  
3 the change of plea hearing when we added the line of the  
4 possession of firearms. So I just want to clarify the record  
5 that the defendant admitted as to that, and it's part of the  
6 evidence.

7 It was not admission made in a vacuum. It was  
8 negotiated with counsel.

9 MR. INSERNI-MILAM: That's true.

10 THE COURT: This is not a conviction for firearms.

11 MR. INSERNI-MILAM: Exactly.

12 MR. LOPEZ-ROCAFORT: No. Of course not.

13 THE COURT: And the Court not once said, to make it  
14 very clear on the record, this is not a conviction.

15 MR. LOPEZ-ROCAFORT: It is not a conviction, Your  
16 Honor.

19 MR. LOPEZ-ROCAFORT: And, again, he's not charged  
20 with a firearm count here.

21 THE COURT: So I already made that finding on the  
22 record. Okay?

23 THE DEFENDANT: I did not admit it. I felt the  
24 coercion, since they didn't give me anymore options.

25 THE COURT: That's your view of the matter.

1 MR. INSERNI-MILAM: Your Honor, I just wanted to --  
2 basically, my point, I should have simplified it, is that,  
3 which I think Your Honor understood, the fact that in 2010  
4 there was a police officer who swore a complaint, it's 2010,  
5 and we are -- today is what? March 29, 2016.

6 And he has not been, ever since he was arrested in  
7 July of last year by the federal authorities in Aguadilla, he  
8 has not been searched or looked upon or arrested or  
9 habeas-corpus arrested by the district attorney of Caguas,  
10 means something.

11 THE COURT: I think that has been made quite clear  
12 already, so the record is clear on that.

13 MR. INSERNI-MILAM: Perfect. Thank you.

14 THE COURT: And this is not a conviction for  
15 firearms.

16 MR. INSERNI-MILAM: Perfect.

17 THE COURT: Okay. Very well.

18                       Okay. On November 30, 2015, the defendant, Carlos  
19                       Javier Rivera-Velazquez, pled guilty to Count One of the  
20                       Indictment in Criminal Case Number 13-433, charging a violation  
21                       of Title 21, U.S. Code, Section 841(a)(1), 846, 860, which is a  
22                       Class B felony.

23 Now, the November 1, 2015, edition of the United  
24 States Sentencing Guidelines has been used to apply the  
25 advisory guideline adjustments, pursuant to the provisions of

1 Guideline Section 1B1.11(a).

2 The guideline for 21, U.S. Code, Section 841(a)(1)  
3 offenses is found in U.S. Sentencing Guideline Section 2D1.1 of  
4 the guidelines. Now, that section provides that an offense  
5 involving at least 3.5, but less than five, kilograms of  
6 cocaine has a base offense level of 28, as per U.S. Sentencing  
7 Guideline Section 2D1.1(c)(6).

8 Since the present offense took place within 1,000  
9 feet of a protected location, a one-level enhancement is  
10 warranted, pursuant to U.S. Sentencing Guideline Section  
11 2D1.2(a)(2). Since defendant possessed a firearm during the  
12 conspiracy, there is a two-level increase -- this level is  
13 increased two levels, pursuant to 2D1.1(b)(1), making it clear  
14 that this is not a conviction for firearms.

15 Since the defendant has demonstrated acceptance of  
16 responsibility for his participation in the offense, the  
17 offense level is reduced by three levels, pursuant to Guideline  
18 Section 3E1.1(a) and (b). There are no other applicable  
19 guideline adjustments.

20 Now, based on a total offense level of 28 and a  
21 criminal history category of I, guideline imprisonment range is  
22 from 78 to 97 months, with a fine range of 12,500 to \$10  
23 million, a supervised release of at least eight years.

24 The Court has reviewed the Advisory Guideline  
25 Calculations, finds that the presentence investigation report

1 has adequately applied those computations. The computations  
2 satisfactorily reflect the components of the offense by  
3 considering its nature and circumstances. Furthermore, the  
4 Court has considered the other sentencing factors set forth in  
5 Title 18, U.S. Code, 3553(a).

6 Mr. Rivera-Velazquez is 34 years old. He's a U.S.  
7 citizen, resident of Caguas. He has five dependents.

8 MR. INSERNI-MILAM: I'm sorry, Your Honor. He's 35,  
9 yesterday.

10 THE COURT: Oh, yeah, March 28th. That's true.  
11 Okay. Okay. Very well. He's 35 years old.

12 Defendant has completed GED exams and was unemployed  
13 at the moment of the arrest. He suffers from hypertension and  
14 hyperlipidemia.

15 MR. INSERNI-MILAM: I'm sorry to interrupt. That is  
16 not correct.

17 He suffers from high blood pressure, which is, as a  
18 matter of fact, the first docket entry in this case by judge,  
19 by the Magistrate McGiverin, was a notice to MDC that he  
20 suffered from high blood pressure. He doesn't suffer from --

21 THE COURT: The other one. Well, okay. So he  
22 suffers from high blood pressure, and recently, you know, he  
23 has been diagnosed with a herniated disc.

24 MR. INSERNI-MILAM: Exactly.

25 THE COURT: Okay?

1                   There is no known history of emotional/psychological  
2 problems within his background. He has no self-reported  
3 history of substance abuse. However, he has reported excessive  
4 alcohol consumption, for which the Court would like for the  
5 Bureau of Prisons to give him some help.

6                   This is Mr. Rivera-Velazquez's second known arrest  
7 and first conviction. He holds a prior arrest at the state  
8 level for violation of the Puerto Rico Controlled Substances  
9 Law and Puerto Rico Weapons Law, which has been  
10 administratively closed as of this time.

11                  The Court has taken into consideration the elements  
12 of the offense and Mr. Rivera-Velazquez's participation as a  
13 supplier, for the drug-trafficking organization, of  
14 marijuana.

15                  THE PROBATION OFFICER: For the record, U.S.  
16 Probation Officer Alexandra Nazario.

17                  Actually, lipidemia is high cholesterol, and he  
18 indicated that during the formal interview.

19                  THE COURT: So we stand corrected.

20                  MR. INSERNI-MILAM: Sorry, Your Honor. Thank you.  
21 We learned a new term today. I apologize, Your Honor.

22                  THE COURT: So, Counsel, please, you're not within  
23 the body of defendant. Okay?

24                  MR. INSERNI-MILAM: The term.

25                  THE COURT: So, okay. It's high cholesterol levels,

1       okay, which have to be treated by the Bureau of Prisons.

2       Okay? Very well.

3               And then, the Court has taken into consideration the  
4       elements of the offense, Mr. Rivera's participation, as I have  
5       indicated, as a supplier of marijuana for the drug-trafficking  
6       organization. The Court has also taken into consideration the  
7       Title 18, 3553, factors, again, elements of the offense, the  
8       plea agreement that the parties have reached, the need to  
9       promote respect for the law and protect the public from further  
10      crimes by defendant, as well as the issues of deterrence and  
11      punishment.

12              He has also taken into consideration what counsel has  
13      brought to the attention of the Court by way of sentencing  
14      memorandum, together with the supplement, concerning  
15      defendant's personal history and characteristics. Okay?

16              And so the Court will give the defendant a sentence  
17      at this time, this being a Type-B plea, at the low end of the  
18      guideline range. Okay?

19              So it is the judgment of this Court that the  
20      defendant will be committed to the custody of the Bureau of  
21      Prisons to be in prison for a term of 78 months. Okay? That  
22      is the low end of the guideline.

23              I have taken into consideration what you have  
24      indicated concerning defendant's personal history and  
25      characteristics. So I have exercised my discretion in that

1 regard. Okay?

2                   Also, defendant will be designated, if at all  
3 possible, to a suitable institution. His first choice would be  
4 Pensacola, in the State of Florida. And then, if that is not  
5 possible, Louisiana and, finally, Mississippi. I believe he  
6 has relatives -- where?

7                   THE DEFENDANT: In New York.

8                   THE COURT: -- in New York. Well, at least, you  
9 know, from here to Puerto Rico -- to Miami, they could go and  
10 visit him. Okay?

11                   MR. INSERNI-MILAM: Perfect.

12                   THE COURT: It's very important, you know, for full  
13 and complete rehabilitation.

14                   Also, the Court would like for this defendant to be  
15 given, you know, a medical evaluation and be treated, you know,  
16 at least, you know, for the pain that comes with the herniated  
17 disc, okay, as well as any medication that will be necessary  
18 for his hypertension and cholesterol levels, and, also, that he  
19 be given, you know, any help that may be necessary, you know,  
20 concerning his alcohol addiction. Plus, you know, any  
21 educational and vocational training that would be available,  
22 you know, within the institution so he will be equipped to make  
23 an honest living when he comes out on supervised release.

24                   Upon release from confinement, defendant shall be  
25 placed on supervised release for a term of eight years, under

1 the following terms and conditions:

2 He shall not commit another federal, state or local  
3 crime and shall observe the standard conditions of supervised  
4 release recommended by the U.S. Sentencing Commission and  
5 adopted by this Court.

6 He shall not unlawfully possess a controlled  
7 substance and refrain from possessing firearms, destructive  
8 devices and other dangerous weapons.

9 He shall refrain from the unlawful use of controlled  
10 substances, submit to a drug test within 15 days of release.  
11 Thereafter, submit to random drug-testing, not less than three  
12 samples during the supervision period, and not to exceed 104  
13 samples per year, in accordance with the Drug Aftercare Program  
14 Policy of the U.S. Probation Office, approved by this Court.

15 If any such samples detect substance abuse, defendant  
16 shall participate in an inpatient or outpatient substance abuse  
17 treatment program for evaluation and/or treatment, as arranged  
18 by the U.S. Probation Officer, until duly discharged.

19 Defendant is required to contribute to the cost of services  
20 rendered (co-payment) in an amount arranged by the probation  
21 officer, based on the availability to pay or availability of  
22 third-party payment.

23 He shall participate in a program or course of study  
24 aimed at improving educational level and/or complete a  
25 vocational training program. In the alternative, he shall

1 participate in a job placement program recommended by the  
2 probation officer.

3                   Defendant shall provide the probation officer access  
4 to any financial information upon request. He shall submit to  
5 a search of his person, property, house, residence, vehicle,  
6 papers, computers, other electronic communication or data  
7 storage devices or media, and effects (as defined in 18, U.S.  
8 Code, Section 1030(e)(1), to search at anytime, with or without  
9 a warrant, by the probation officer, and if necessary, with the  
10 assistance of any other law enforcement officer (in the lawful  
11 discharge of the supervision functions of the probation  
12 officer) with reasonable suspicion concerning unlawful conduct  
13 or a violation of a condition of probation or supervised  
14 release.

15                   The probation officer shall seize any electronic  
16 device, which will be subject to further forensic  
17 investigation/analyses. Failure to submit to such a search and  
18 seizure may be grounds for revocation. Defendant shall warn  
19 any other residents or occupants that their premises may be  
20 subject to search, pursuant to this condition.

21                   Defendant shall assist in the collection of a DNA  
22 sample, as directed by the probation officer, pursuant to the  
23 Revised DNA Collections Requirements, and Title 18, U.S. Code.

24                   Having considered Mr. Rivera-Velazquez's financial  
25 condition, a fine will not be imposed at this time. And so,

1 but the special monetary assessment in the amount of \$100 must  
2 be imposed, as required by law.

3 Now, in your plea agreement, you have waived your  
4 right to appeal, provided I sentence you in accordance with the  
5 plea agreement, which I have done so. Therefore, if you should  
6 file a notice of appeal, most likely, the Court of Appeals will  
7 enforce that waiver.

8 However, if you still wish to file a notice of  
9 appeal, it has to be filed within 14 days of judgment being  
10 entered in your case. And if you're unable to pay the cost of  
11 an appeal, you may apply for leave to appeal in forma pauperis.  
12 And if you so request, the Clerk of the Court will prepare and  
13 file a notice of appeal on your behalf.

14 Mr. Rivera, you know, I have taken into account some  
15 of your good deeds, you know, that were relayed to me by  
16 counsel, concerning your personal history and characteristics.  
17 I think this should be it for you. You know, it simply doesn't  
18 pay, you know, to be here being sentenced, you know, spending  
19 time in prison, when you can be enjoying your family, you know,  
20 and those people.

21 So put your heart and soul, you know, in whatever  
22 programs may be available for you, you know, and zero in on  
23 your family in the future. You know, forget about anything  
24 that has to do with a controlled substance in the future, you  
25 know.

1                   They're objects. They're not as important as you, as  
2 a human being. Okay? You have a dignity of your own, you  
3 know, and you're much more than that. And you can give much  
4 more than that, especially to your family members, as well as  
5 to society in general. So I hope everything works out for  
6 while you're in prison. Okay?

7 Anything else?

8 MR. INSERNI-MILAM: Nothing else. Thank you for  
9 those words, Your Honor.

10 THE COURT: Very well.

11 MR. INSERNI-MILAM: Permission to leave the  
12 courtroom.

13 THE COURT: Okay.

14 MR. INSERNI-MILAM: Thank you. Have a good  
15 afternoon.

16 MR. LOPEZ-ROCAFORT: Your Honor, we move for  
17 dismissal of the remaining counts.

18 THE COURT: So all remaining counts, according to the  
19 request of the government, are hereby dismissed.

20 MR. LOPEZ-ROCAFORT: Thank you, Your Honor.

21 THE COURT: Okay. Very well.

22 (Proceedings concluded at 5:24 p.m.)

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1 UNITED STATES DISTRICT COURT )  
2 DISTRICT OF PUERTO RICO ) ss.

## REPORTER'S CERTIFICATE

6 I, CINDY LEE BROWN, do hereby certify that the  
7 above and foregoing, consisting of the preceding 23 pages,  
8 constitutes a true and accurate transcription of my  
9 stenographic notes and is a full, true and complete transcript  
10 of the proceedings to the best of my ability.

11 Dated this 1st day of May, 2016.

14 | /s/ Cindy Lee Brown

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